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| EXAMINER |
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3629

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/687,303

Applicant(s)

MILLER ET AL.

Examiner

Janice A. Mooneyham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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### DETAILED ACTION

1. This is in response to the applicant's communication filed on October 10, 2006, wherein:

Claims 1-27 are currently pending;

Claims 1, 5-6, 10 and 14 have been amended.

### *Response to Amendment*

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9, 14-21, 24-25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US 6,496,568) (hereinafter referred to as Nelson) in view of Becker et al (US 6,591,263) (hereinafter referred to as Becker and further in view of Schumberger Demonstrates Unique Value-Added Loyalty Application At CTIA Wireless '99 (hereinafter referred to As Schumberger).

Regarding Claim 1:

Nelson discloses a computer program stored on a computer-readable medium for operating a host computer ***to automatically notify passengers or agents of changes in status for airline flights***, the computer program comprising:

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a code segment executed by the host computer for receiving a scheduled time of departure or arrival for an airline flight (Figure 1 (143) Flight Manifests; 142 Real-Time Flight Information);

a code segment executed by the host computer for receiving an updated time of departure or arrival for the airline flight (col. 2, lines 40-47 – *a flight delay or early arrival*, (Figure 1, (142) *Real time flight information, notifier and updater system 110*, col. 5, lines 3-13);

a code segment executed by the host computer for comparing (*polling and evaluating*) the updated time of departure or arrival to the scheduled time of departure or the arrival for the flight (Figure 3B(350-365) col. 2, lines 17-25 and 35-39, col. 5, lines 3-13 *the customer message manager performing the steps of **polling** an airline system to receive airline information, **evaluating** the received information to generate notification events*); and

a code segment executed by the host computer for automatically pushing **flight status change** notification information to at least one passenger on the airline flight or an agent of the passenger (col. 1, lines 64-67 *the customer message manager provides notification through email, paging, a web site, automated voice synthesis, interactive voice response, and/or a call center*, col. 2, lines 17-25 *polling and evaluating the received airline information to generate notification events, determining a set of customers to provide notification of the generated notification event and initiating notification to the set of customers*)

Nelson does not explicitly disclose the notification is pushed to the passenger if the updated time of departure or arrival varies from the scheduled time of departure or arrival *by a predetermined amount of time* or that the request is at the time of making the reservation or ***a code segment for receiving passenger reservation information from an airline passenger or an agent, the passenger reservation information including a request for automatic flight status change notification information for an airline flight the passenger is reserving.***

However, Becker teaches notification if the updated time of departure or arrival varies by a predetermined amount of time (notification criteria such as information threshold which includes total length of anticipated delay) (col. 4, line 67 thru col. 5, line 4 *system notify them automatically according to a set of notification criteria such as time of day, information threshold (e.g. total length of anticipated delays, total travel time, required arrival time, etc and the like)* and a personalized multi-modal profile (Figure 1 (100)) which contains such items as the notification time windows during which travel is anticipated (col. 4, lines 41-58) and wherein the end users may request personalized information at any time (col. 4, line 64 thru col. 5, line 4) (this can be broadly interpreted to incorporate a request at the time the reservation is made).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the notification criteria of Becker with the disclosure of Nelson since the Multi Modal Travel Information System (MTIS) of Nelson significantly reduces the traveler's burden and frustration with the additional and often irrelevant information reported by known systems through dissemination of portions of the

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generalized travel conditional information and provides for personalized information for personalized travel conditions.

Schlumberger receiving passenger reservation information from an airline passenger or an agent, the passenger reservation information including a request for automatic flight status change notification information for an airline flight the passenger is reserving (page 1, paragraph 2, page 2, paragraph 2; Schlumberger uses smart card-enabled push/pull technology to deliver personalized flight information; when a subscriber books a flight on a participating airline, the subscriber will have the option of automatically receiving the following information and alerts delivered via his/her hand set: Alerts about gate changes, flight delays or cancellations.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the notification system disclosed in Nelson the option at the time of booking to receiving the alert information taught in Schlumberger so as to provide personalized and on-demand flight information as a complementary service for the most important common customers thereby creating a value added service with special appeal to business travelers and allowing the airline companies to retain customers and grow their subscriber base.

Regarding Claim 6:

Nelson discloses a computer program stored on a computer-readable medium for operating a host computer ***to automatically notify passengers or agents of changes in status for airline flights***, the computer program comprising;

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a code segment executed by the host computer for receiving and storing in a database scheduled times of departure or arrival for airline flights (Figure 1 (143) Flight Manifests);

a code segment executed by the host computer for receiving and storing in the database any updated times of departure or arrival for the flights (col. 2, lines 40-47 –a *flight delay or early arrival*, (Figure 1 (142) *Real time flight information, notifier and updater system 110*, col. 5, lines 3-13);

a code segment for comparing (*polling and evaluating*) for each of the flights the scheduled time of departure or arrival to the updated time of departure or arrival ((Figure 3B(350-365) col. 2, lines 17-25 and 35-39, col. 5, lines 3-13 *the customer message manager performing the steps of **polling** an airline system to receive airline information, **evaluating** the received information to generate notification events*);

a code segment for flagging (*determining*) records in the database corresponding to flights in which the updated times of departure or arrival vary from the scheduled times of departure or arrival (col. 3, lines 44-67 *Customer Message Manager (CMM) (105) comprises a notifier and updater system (110) which is the computing engine that drives the determination of which events require customer notification and then commences the process using a set of notifier rules(106) in making this determination*, col. 5, lines 3-13 - *CMM 105 polls airline databases 130 and then based on notifier rules, notifier and updater system 110 determine (flag) what events require customer notification*); and

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a code segment for periodically querying the database to locate all flagged records and pushing **flight status change** notification information to **each** passenger or **agent** of the passenger on each flight corresponding to a record that has been flagged (Figure 3A 300-320 col. 3, lines 54-67 *notifier and updater system 110 can then query the airline databases 130 and determine what passengers are on the canceled flight and initiate the order of notification to the affected customers based on some criteria*). *set of customers*)

Nelson does not explicitly disclose the notification is pushed to the passenger if the updated time of departure or arrival varies from the scheduled time of departure or arrival *by a predetermined amount of time* or that the request is at the time of making the reservation or **a code segment for receiving passenger reservation information from airline passengers or agents, the passenger reservation information including a request for automatic flight status change notification information for an airline flight a passenger is reserving.**

However, Becker teaches notification if the updated time of departure or arrival varies by a predetermined amount of time (notification criteria such as information threshold which includes total length of anticipated delay) (col. 4, line 67 thru col. 5, line 4 *system notify them automatically according to a set of notification criteria such as time of day, information threshold (e.g. total length of anticipated delays, total travel time, required arrival time, etc and the like)* and a personalized multi-modal profile (Figure 1 (100)) which contains such items as the notification time windows during which travel is anticipated (col. 4, lines 41-58) and wherein the end users may request personalized

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information at any time (col. 4, line 64 thru col. 5, line 4) (this can be broadly interpreted to incorporate a request at the time the reservation is made).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the notification criteria of Becker with the disclosure of Nelson since the Multi Modal Travel Information System (MTIS) of Nelson significantly reduces the traveler's burden and frustration with the additional and often irrelevant information reported by known systems through dissemination of portions of the generalized travel conditional information and provides for personalized information for personalized travel conditions.

Schlumberger discloses receiving passenger reservation information from an airline passenger or an agent, the passenger reservation information including a request for automatic flight status change notification information for an airline flight the passenger is reserving (page 1, paragraph 2, page 2, paragraph 2; Schlumberger uses smart card-enabled push/pull technology to deliver personalized flight information; when a subscriber books a flight on a participating airline, the subscriber will have the option of automatically receiving the following information and alerts delivered via his/her hand set: Alerts about gate changes, flight delays or cancellations.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the notification system disclosed in Nelson the option at the time of booking to receiving the alert information taught in Schlumberger so as to provide personalized and on-demand flight information with a complementary service for the most important common customers creating a value added service with special

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appeal to business travelers, thus allowing the airline companies to retain customers and grow their subscriber base.

Regarding Claim 14:

Nelson discloses method of notifying airline passengers of airline flight status changes, the method comprising the steps of:

receiving scheduled departure or arrival times of a plurality of airline flights and storing the scheduled departure or arrival times in a computer readable memory (Figure 1 (143) Flight Manifests);

receiving updated departure or arrival times for the airline flights from a source and storing the updated departure or arrival times in a computer readable memory (Col. 2, lines 40-47 –flight delay or early arrival; Figure 1 (142) Real time flight information);

comparing (*polling and evaluating*) the scheduled departure or arrival times to the updated departure or arrival times by a computer(Figure 3B(350-365) col. 2, lines 17-25 and 35-39, col. 5, lines 3-13 *the customer message manager performing the steps of **polling** an airline system to receive airline information, **evaluating** the received information to generate notification events*); and

automatically pushing **flight status change** notification information to at least one passenger on an airline flight if the updated departure or arrival time for the airline flight varies from the scheduled departure or arrival for the airline flight (col. 1, lines 64-67 *the customer message manager provides notification through email, paging, a web site, automated voice synthesis, interactive voice response, and/or a call center*, col. 2, lines 17-25 *polling and evaluating the received airline information to generate*

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*notification events, determining a set of customers to provide notification of the generated notification event and initiating notification to the set of customers).  
set of customers)*

Nelson does not explicitly disclose the notification is pushed to the passenger if the updated time of departure or arrival varies from the scheduled time of departure or arrival by a predetermined amount of time or that the request is at the time of making the reservation or ***receiving passenger reservation information from the airline passengers, the passenger reservation information including a request for automatic flight status change notification information for an airline flight the passenger is reserving.***

However, Becker teaches notification if the updated time of departure or arrival varies by a predetermined amount of time (notification criteria such as information threshold which includes total length of anticipated delay) (col. 4, line 67 thru col. 5, line 4 *system notify them automatically according to a set of notification criteria such as time of day, information threshold (e.g. total length of anticipated delays, total travel time, required arrival time, etc and the like)* and a personalized multi-modal profile (Figure 1 (100)) which contains such items as the notification time windows during which travel is anticipated (col. 4, lines 41-58) and wherein the end users may request personalized information at any time (col. 4, line 64 thru col. 5, line 4) (this can be broadly interpreted to incorporate a request at the time the reservation is made).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the notification criteria of Becker with the disclosure of

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Nelson since the Multi Modal Travel Information System (MTIS) of Nelson significantly reduces the traveler's burden and frustration with the additional and often irrelevant information reported by known systems through dissemination of portions of the generalized travel conditional information and provides for personalized information for personalized travel conditions.

Schlumberger discloses receiving passenger reservation information from an airline passenger or an agent, the passenger reservation information including a request for automatic flight status change notification information for an airline flight the passenger is reserving (page 1, paragraph 2, page 2, paragraph 2; Schlumberger uses smart card-enabled push/pull technology to deliver personalized flight information; when a subscriber books a flight on a participating airline, the subscriber will have the option of automatically receiving the following information and alerts delivered via his/her hand set: Alerts about gate changes, flight delays or cancellations.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the notification system disclosed in Nelson the option at the time of booking to receiving the alert information taught in Schlumberger so as to provide personalized and on-demand flight information with a complementary service for the most important common customers creating a value added service with special appeal to business travelers, thus allowing the airline companies to retain customers and grown their subscriber base.

Regarding Claims 2, 7 and 15:

Nelson discloses a computer program and method wherein the notification information includes information relating to the updated time of departure or arrival for the airline (Figures 5A (510) *compose email message wherein 5B (555) represents a response from the customer*).

Regarding Claims 3-4, 8-9, and 16-17:

Nelson does not disclose the notification if the updated time of departure or arrival varies from the scheduled time of departure or arrival *by a predetermined amount of time, that the predetermined amount of time is 10-60 minutes or approximately 30 minutes*.

However, Becker teaches notification if the updated time of departure or arrival varies by a predetermined amount of time (notification criteria such as information threshold which includes total length of anticipated delay) (col. 4, line 67 thru col. 5, line 4 *system notify them automatically according to a set of notification criteria such as time of day, information threshold (e.g. total length of anticipated delays, **which could include 10-60 minutes or approximately 30 minutes**, total travel time, required arrival time, etc and the like)*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the notification criteria of Becker with the disclosure of Nelson since the Multi Modal Travel Information System (MTIS) of Nelson significantly reduces the traveler's burden and frustration with the additional and often irrelevant information reported by known systems through dissemination of portions of the

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generalized travel conditional information and provides for personalized information for personalized travel conditions.

Regarding Claim 5:

Schlumberger discloses ***wherein the passenger reservation information includes passenger contact information for receiving automatic flight status change notification*** information about the airline flight the passenger is reserving (page 1 and page 2 Schlumberger uses smart card-enabled push/pull technology to deliver personalized flight information; when a subscriber books a flight on a participating airline, the subscriber will have the option of automatically receiving the following information and alerts delivered via his/her hand set: Alerts about gate changes, flight delays or cancellations (The passenger reservation information would inherently have to include passenger contact information for receiving notification since alerts are delivered via the hand set).

Regarding Claims 18 and 20:

Nelson discloses computer program wherein the host computer comprises a plurality of computing devices (Figure 1, col. 4, lines 2-6 and 46-56, Fig 7A, notification via web page server).

Regarding Claims 19 and 21:

Nelson discloses a computer program wherein the host computer comprises a computer network (Figure 1, col. 4, lines 2-6, 46-56, Figure 7A notification via a web page server).

Regarding Claims 24-25 and 27:

Nelson discloses computer program and method wherein the notification information is pushed through electronic mail (col. 4, lines (46-56, Figure 5A (500-515) send email message).

3. Claims 10-13, 22-23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker in view of Nelson and further in view of Schlumberger.

Regarding Claim 10, 12 and 13:

Becker discloses a computer program stored on a computer readable medium for operating a host computer **to automatically notify passengers or agents of changes in status for airline flights**, comprising code segments executed by the host computer for:

receiving passenger reservation information from an airline passenger **or an agent of the passenger** (col. 5, lines 42-55 *Data elements are collected/captured for their personal profile for uniquely identifying the traveler, their personal travel route(s) and their preferred notification criteria and communication devices for information delivery*; Figure 1 (40) col. 5, lines 20-29 *conditions information (accidents, congestion, delays)*; *Personalized multi-Modal Route Profiles – Route –Description – Origin – Destination*; col. 4, lines 41-58, *discloses travel mode as being rail, ferry, air, or tramway, etc., profile contains such items as the traveler's name, preferred travel mode, travel time(s)*)

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storing the passenger reservation information including the scheduled time of departure or arrival of the flight (col. 4, lines 41-58 – *personalized multi-modal profile contains such item as the notification time window(s) during with travel is anticipated*; col. 5, lines 42-55 – *each route defined within the profile contains a description, origin, multi-modal path and destination and the notification criteria includes the days of the week and times of day that travel on the route is anticipated*)

receiving contact information from the passenger (col. 4, lines 41-58 (*profile contains preferred information delivery device, e.g. telephone, fax, pager, e-mail, etc*, Figure 1 (40);

receiving an updated time of departure or arrival for the flight (col. 4, lines 29-40 *system receives real-time travel condition information*);

accessing the date ranged information and comparing the scheduled time of departure or arrival to the updated time of departure or arrival (col. 2, line 52 thru col. 3, line 3 *system and method for filtering real time travel condition information in regard to traveler identity, destination, route, mode of conveyance and/or intended travel time for limitation information*, col. 12, line 64 thru col. 13, line 3 (*successful comparisons provided identification of the affected customers and corresponding route for storage with information concerning the travel conditions event as an affected customer list is built*, col. 5, line 67 thru col. 6, line 4 *once determination made that customer's designated notification time window falls some time during the expected duration of the event, a determination is made as to when to notify the customer of the travel condition*); and

automatically pushing **flight status** notification information to the passenger or to an agent of the passenger who has requested notification information via the contact information if the updated time of departure or arrival varies from the scheduled time of departure or arrival by a predetermined amount of time (col. 4, line 67 thru col. 5, lines 4 *system notify them automatically according to a set of notification criteria such information thresholds e.g. total length of anticipated delays* – which could include a predetermined amount of time between 10-60 minutes or an amount of time of approximately 30 minutes; col. 6, lines 4-8 *the final filtering process is to determine the customer's notification preference e.g. telephone, pager, email, facsimile, Internet, Intranet*; a personalized multi-modal profile (Figure 1 (100)) contains such items as the notification time windows during which travel is anticipated (col. 4, lines 41-58) the end users may request personalized information at any time (col. 4, line 64 thru col. 5, line 4) (this can be broadly interpreted to incorporate a request at the time the reservation is made).

Becker does not disclose queuing the passenger information at a date-ranged queue using the time of departure or arrival or that the passenger reservation information includes ***a request for automatic flight status change notification information for an airline flight the passenger is reserving or that the request is at the time of making the reservation.***

However, Becker discloses collecting/capturing the personal profile information which includes time of departure or arrival and the expected duration of the travel condition wherein a determination is made that the customer's designated notification

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time window falls some time during the expected duration of the event and then a determination is made as to when to notify the customer about the condition (col. 5, line 42 thru col. 6, line 8).

The Examiner takes Official Notice that putting information in a queue is old and well known in the art since queuing is simply listing items to be done, for example, a print queue for a printer prints the items in the order that they are requested.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Becker to include the step of queuing the information with respect to date in order for ease of processing.

Schlumberger discloses a code segment for receiving passenger reservation information from an airline passenger or an agent, the passenger reservation information including a request for automatic flight status change notification information for an airline flight the passenger is reserving (page 1, paragraph 2, page 2, paragraph 2; Schlumberger uses smart card-enabled push/pull technology to deliver personalized flight information; when a subscriber books a flight on a participating airline, the subscriber will have the option of automatically receiving the following information and alerts delivered via his/her hand set: Alerts about gate changes, flight delays or cancellations.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the notification system disclosed in Nelson the option at the time of booking to receiving the alert information taught in Schlumberger so as to provide personalized and on-demand flight information with a complementary service

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for the most important common customers creating a value added service with special appeal to business travelers, thus allowing the airline companies to retain customers and grown their subscriber base.

Regarding Claim 11:

Becker discloses a program wherein the notification information includes information relating to the updated time of departure or arrival (col. 5, lines 20-41 dissemination of personalized travel conditions information).

Regarding Claim 22:

Becker discloses a computer program wherein the host computer comprises a plurality of computing devices (Figure 2, col. 5, lines 14-19 delivery devices may be pages, email, facsimile, Internet, Intranet, in-vehicle devices).

Regarding Claim 23:

Becker discloses computer program wherein the host computer comprises a computer network (Internet col. 5, lines 42-45).

Regarding Claims 26:

Becker discloses a computer program wherein the notification information is pushed through electronic mail. (Figure 1 (60), Figure 14 (1403 Customer Notification Device (E-Mail))

### ***Response to Arguments***

Applicant's arguments filed October 10, 2006 have been fully considered but they are not persuasive.

The applicant has amended claims 1, 6, and 14 to incorporate the limitation that *passenger reservation information is received from passengers or agents, the passenger reservation information including a request for automatic flight status change notification information for an airline flight the passenger is reserving.*

Any arguments to this newly amended claim limitation have been considered but are moot in view of the new ground(s) of rejection.

As for applicant's argument that Nelson fails to teach pushing flight status change notification information to a passenger or agent if the updated time of departure or arrival varies from the scheduled time of arrival or departure by a predetermined amount, the Examiner asserts that, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Nelson in combination with Becker disclose this limitation.

The applicant argues that, in regard to the Becker reference, "it is still up to the traveler information system to decide if and when to notify the traveler" and that Becker teaches that it is preferred to avoid automatic notification of planned events. The applicant asserts that the system taught by Becker would only provide automatic

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notification to travelers for unplanned events *which would seem to be only those events that the traveler could not become aware of through other means.*

The Examiner directs the applicant to col. 4, line 41 through col. 5, line 19, wherein Becker discloses:

(5) **The Multi-Modal Traveler Information System (MTIS) 100 significantly reduces the traveler's burden and frustration with the additional and often irrelevant information reported by known systems** through dissemination of portions of the generalized travel conditions information 20 based upon their personalized multi-modal profile input thereto, as depicted at 40. This personalized multi-modal profile would contain such items as the traveler's name, preferred travel mode(s) (e.g. roadway, bus, subway, rail, ferry, air, tramway, etc.), primary and alternate travel route(s), travel time(s), notification time window(s) during which travel is anticipated, and preferred information delivery device(s) (e.g. telephone (wired & wireless), pager (one-way & two-way), e-mail, facsimile, Internet, Intranet, in-vehicle device, etc.), collectively depicted at 60. It is with this personal information 40 that the system 100 is able to construct a filter that provides the end user with personalized travel conditions information.

(6) Dissemination of personalized information is provided by means of any end user device that is compatible with transmission of real-time voice, video or digital message information (e.g. telephone (wired & wireless), pager (one-way & two-way), e-mail, facsimile, Internet, Intranet, in-vehicle device, etc.). For devices that support two way communications, such as the telephone, Internet and two way pagers, end users may request personalized information at any time. For all devices, the end user may have the system notify them automatically according to a set of notification criteria such as time of day, information thresholds (e.g. depth of snow, total length of anticipated delays, total travel time, required arrival time, etc.), and the like.

(7) The invention does not depend on any unique dissemination device, but rather provides for personalized information to be disseminated across any and all compatible devices to support the traveler's desire for freedom of device choice. Therefore, the present invention does not rely on any proprietary communications protocols or non-public geographic referencing methods, but rather provides open communications and geographic referencing methods to ensure the broadest application of the invention and broadest availability to travelers. On the contrary, the invention employs an open modular architecture which enables the timely delivery of travel conditions information over many delivery devices (e.g. telephone (wired & wireless), pager (one-way & two-way),

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e-mail, facsimile, Internet, Intranet, in-vehicle device, etc.).

Thus, it appears that if the plane is on time, a planned event, the system may not alert the passenger. However, if the plane is late, an unplanned event, and the plane is late by a specified amount of time in which the passenger has indicated they wish to be notified, the system will alert the passenger.

As for applicant's argument that claim 6 teaches the feature of receiving and storing in a database scheduled times of departure or arrival for substantially all airline flights departing and arriving with a certain time and that Nelson and Becker do not disclose an independent database, the Examiner asserts that the airline databases are independent databases.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

As to claims 1-9, 14-21, 24-25 and 27, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed.

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Cir. 1992). In this case, the motivation is found in the secondary reference (col. 4, lines 41-58).

It is not clear what the applicant means by the statement on page 10 that in Becker, even if a traveler has signed up for automatic notification, it is still up to the travel information system to decide when to notify the traveler. Contrary to applicant's arguments, the Examiner asserts that this is automatically pushing notification to a requesting passenger.

As for applicant's argument that neither Nelson nor Becker teach the feature of flagging records, the Examiner asserts that Nelson discloses flagging (*determining*) records in the database corresponding to flights in which the updated times of departure or arrival vary from the scheduled times of departure or arrival (col. 3, lines 44-67 *Customer Message Manager (CMM) (105) comprises a notifier and updater system (110) which is the computing engine that drives the determination of which events require customer notification and then commences the process using a set of notifier rules(106) in making this determination, col. 5, lines 3-13 - CMM 105 polls airline databases 130 and then based on notifier rules, notifier and updater system 110 determine (flag) what events require customer notification*).

As for applicant's argument against the Official Notice that date-ranged queuing is known in the art, the applicant is mistaken as to the rejection. The Examiner takes Official Notice that queuing is old and well known, which applicant also admits. The Examiner then asserted that it would have been obvious to one of ordinary skill in

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the art at the time of the invention to modify Becker to include the step of queuing the information with respect to date in order for ease of processing.

Furthermore, a "traverse" is a denial of an opposing party's allegations of fact.<sup>1</sup> The Examiner respectfully submits that applicants' arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art.

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<sup>1</sup> Definition of Traverse, Black's Law Dictionary, "In common law pleading, a traverse signifies a denial."

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

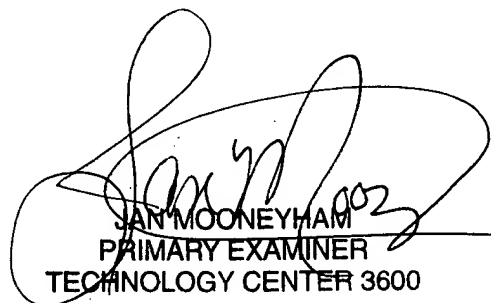
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janice A. Mooneyham whose telephone number is (571) 272-6805. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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